IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 28TH FEBRUARY 2007 / 9TH PHALGUNA 1928

WP(C).No. 26489 of 2006(C)

PETITIONER:

HARISUDHAN PILLAI, S/O.
S.K.SANKARA PILLAI, AGED 38 YEARS,
SREE VAISHNAVOM, MANAMPUZHA P.O., KUNNATHUR VILLAGE, KOLLAM-690 540.

BY ADV. SRI.BECHU KURIAN THOMAS
SRI.ROSHEN.D.ALEXANDER

RESPONDENTS:
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1. **DISTRICT REGISTRAR,**
   REGISTRAR OF SOCIETIES, KOLLAM.

2. **THE PRESIDENT, THRIKANNAPURAM SRI MAHADEVAR KSHETRAM HAINDAVA SANKADANA, MANAMPUZHA P.O., KUNNATHUR VILLAGE, KOLLAM-690 540.**

3. **THE SECRETARY, THRIKANNAPURAM SRI MAHADEVAR KSHETRAM HAINDAVA SANKADANA, MANAMPUZHA P.O., KUNNATHUR VILLAGE, KOLLAM-690 540.**

4. **THE ELECTION OFFICER,**
   THRIKANNAPURAM SRI MAHADEVAR KSHETRAM HAINDAVA SANKADANA, MANAMPUZHA P.O., KUNNATHUR VILLAGE, KOLLAM-690 540.

...2./-

*ADDL.R5 IS IMPLEADED:

R5. RAMACHANDRAN PILLAI,
S/O.SANKARAN PILLAI,
RESIDING AT MULAMPALIVILA VEEDU,
KUNNATHUR, KOLLAM DISTRICT.

(ADDL.R5 IS IMPLEADED AS PER ORDER DTD. 18/10/2006)

BY ADV. SRI.P.C.SASIDHARAN for Addl.R5
SRI.C.MURALIKRISHNAN (PAYYANUR)
BY GOVERNMENT PLEADER SMT. ANU SIVARAMAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1:	**COPY OF THE MEMORANDUM OF ASSOCIATION ATTACHED WITH THE BYE LAW OF THE SOCIETY.**
EXT.P1(A):	**COPY OF THE AMENDMENT INCORPORATED IN 1994.**
EXT.P1(B):	**COPY OF THE AMENDMENT INCORPORATED IN THE YEAR 2004.**
EXT.P2:	**COPY OF THE ELECTION IN THE ANNUAL GENERAL MEETING DTD. 5/02/06.**
EXT.P3:	**COPY OF THE ELECTION NOTIFICATION DTD. 20/09/06 ISSUED BY THE 4TH RESPONDENT.**
EXT.P4:	**COPY OF THE VOTERS LIST.**
EXT.P5:	**COPY OF THE OBJECTION DTD. 29/09/06 SUBMITTED BY THE PETITIONER TO THE 4TH RESPONDENT.**
EXT.P6:	**COPY OF THE MINUTES OF THE MEETING OF THE GOVERNING COUNCIL OF THE 2ND AND 3RD RESPONDENTS HELD ON 07/05/06 AS RECORDED IN PAGES 91 TO 92 OF THE MINUTES BOOK.**
EXT.P6(A):	**COPY OF THE MINUTES OF THE MEETING HELD ON 01/06/06 AS RECORDED IN PAGES 93 AND 94 OF THE MINUTES BOOK.**
EXT.P6(B):	**COPY OF THE MINUTES OF THE MEETING HELD ON 29/06/06 AS RECORDED IN PAGES 95 OF THE MINUTES BOOK.**
EXT.P6(C):	**COPY OF THE MINUTES OF THE MEETING HELD ON 21/07/06 AS RECORDED IN PAGES 96 OF THE MINUTES BOOK.**
EXT.P6(D):	**COPY OF THE MINUTES OF THE MEETING HELD ON 24/09/06 AS RECORDED IN PAGAES 93 AND 94 OF THE MINUTES BOOK.**
EXT.P7:	**COPY OF THE REPRESENTATION DTD. 09/10/06.**

...2/-

1ST RESPONDENT'S EXHIBITS:

EXT.R1(A): COPY OF THE COMPROMISE AGREEMENT DTD. 25/05/2006.

5TH RESPONDENT'S EXHIBITS:

EXT.R5(A): COPY OF THE DETAILS OF VOTES OBTAINED BY VARIOUS CANDIDATES.

EXT.R5(B): COPY OF THE PROCEEDINGS CONSTITUTING THE ADHOC COMMITTEE.

RESPONDENT'S ANNEXURE:

ANNEXURE R1: COPY OF THE UNDERSTANDING ARRIVED AT IN THE JOINT MEETING HELD UNDER THE AUSPICIOUS OF THE DISTRICT REGISTRAR, KOLLAM.

/TRUE COPY/

Kss

THOTTATHIL B.RADHAKRISHNAN, J

W.P(C).No.26489 OF 2006

Dated this the 28th day of February, 2007

JUDGMENT

The petitioner has filed this writ petition challenging the notification of election under the Travancore-Cochin Literary, Scientific and Charitable Societies Registration Act, 1955 on the allegation that the first respondent District Registrar, who is the registrar for the purpose of that statute, had acted contrary to that statute by convening certain meetings. The additional 5th respondent is the newly elected persons following the election, which was held since this Court did not grant any interlocutory order restraining the election. Respondents 2 and 3, though impleaded by office, state that persons who are then holding the office of the President and Secretary were made to sign certain compromise that the whole election is contrary to the bye-laws as also the Act.

2. Section 25 of that Act provides for application to the court

for dissolution, framing schemes etc. It also provides authority for the district court to pass such orders as may be necessary to remove any existing Governing Body and appointing fresh Governing Body. That apart, if any person has a right to assert his title to an office, that is well within the parameters of Section 9 of the C.P.C. and he had to establish such right to get over any cloud created to such title. The petitioner's right was only to vote and if he has a case that the whole election is against the interest of the society or contrary to law, he has alternate efficacious remedy, either under Section 25 of the Act or before the civil court. Not only that, there are obviously disputed questions of facts, including the question as to whether the alleged compromise stated to have been entered before the Registrar was one muted or under compulsion and as to whether any election was held on 5.2.2006. These are not matters which could be gone into in a writ petition.

3. In the result, in the absence of any ground to issue any

direction as sought for by the petitioner, this writ petition fails. It is, therefore, dismissed without prejudice to alternate remedies.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.